

Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

August B. Krens IV

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See Attached

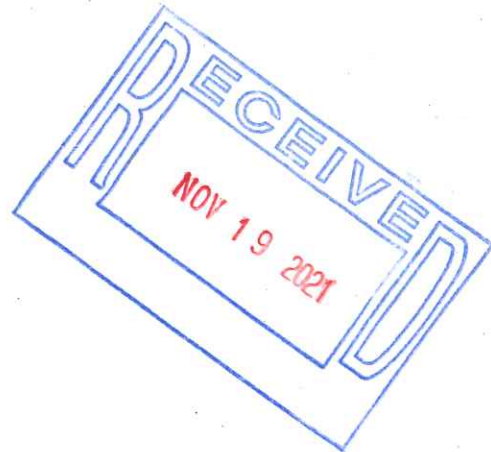
Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

21-3321

(to be filled in by the Clerk's Office)



COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Defendants

1. Palmer Township
2. Jacqueline Taschner Esq.
3. Evan Goldstein
4. Patrick Cline
5. Kenneth McPherson
6. John Gillen
7. James Alencia

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

August B. Kreis IV

August Kreis, Byron

5264

Northampton County Prison

666 Walnut Street

Easton

PA

18042

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Palmer Township
Municipality

State of Pennsylvania

3 Weller Place

Easton

PA

18045

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Jacqueline Taschner Esq.
Magisterial District Judge

Palmer Township

3 Weller Place

Easton

PA

18045

City

State

Zip Code



Individual capacity



Official capacity

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Defendant No. 3

Name

Evan Goldstien

Job or Title (if known)

Police Officer

Shield Number

2703

Employer

Palmer Township Police Department

Address

5 weller Place

Easton

City

PA

State

18045

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

Patrick Chinese

Job or Title (if known)

Police Officer

Shield Number

2733

Employer

Palmer Township Police Department

Address

5 weller Place

Easton

City

PA

State

18045

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4th and 14th Amendments

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

B. Defendants

| | | | | |
|-----------------|---------------|---|---|----------|
| Defendant No. 5 | Name | Kenneth McPherson | | |
| | Job or Title | Police Officer | | |
| | Shield Number | 2740 | | |
| | Employer | Palmer Township Police Department | | |
| | Address | 5 Weller Place | | |
| | | Easton | PA | 18045 |
| | | City | State | Zip Code |
| | | <input checked="" type="checkbox"/> Individual Capacity | <input checked="" type="checkbox"/> Official Capacity | |

| | | | | |
|-----------------|---------------|---|---|----------|
| Defendant No. 6 | Name | John Gillen | | |
| | Job or Title | Police Officer | | |
| | Shield Number | 2732 | | |
| | Employer | Palmer Township Police Department | | |
| | Address | 5 Weller Place | | |
| | | Easton | PA | 18045 |
| | | City | State | Zip Code |
| | | <input checked="" type="checkbox"/> Individual Capacity | <input checked="" type="checkbox"/> Official Capacity | |

| | | | | |
|------------------|---------------|---|---|----------|
| Defendant No. 17 | Name | James Alercia | | |
| | Job or Title | Police Officer | | |
| | Shield Number | 2736 | | |
| | Employer | Palmer Township Police Department | | |
| | Address | 5 Weller Place | | |
| | | Easton | PA | 18045 |
| | | City | State | Zip Code |
| | | <input checked="" type="checkbox"/> Individual Capacity | <input checked="" type="checkbox"/> Official Capacity | |

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attached

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

2200 Donald St, Easton, PA 18045 upon a Felony Arrest Warrant

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Do

Defendant 1, Acted under Pennsylvania State legislator/Law,

Defendant 2, Acted under Pennsylvania State legislature/Law,

Defendant 3, Acted under Pennsylvania State legislature/Law,

Defendant 4, Acted under Pennsylvania State legislature/Law,

Defendant 5, Acted under Pennsylvania State legislature/Law,

Defendant 6, Acted under Pennsylvania State legislature/Law,

Defendant 7, Acted under Pennsylvania State legislature/Law,

C. What date and approximate time did the events giving rise to your claim(s) occur?

11/8/2020 at 11:21 pm

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attached

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Head Trauma, Severe Headache, Back Pain, Mental Anguish, Humiliation, Bruises, Lacerations. I was taken via Suburban EMS to the Easton Hospital for removal of the 4 taser probes as pursuant to Palmer Policy.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

12,000,000.00 punitive for being arrested on suspicion and history without further investigation in violation of my 4th Amendment Rights. The use of excessive force and false imprisonment in violation of my 14th Amendment Rights.

D.

Claim 1.

Two individuals at approximately 7:30 pm on 11/8/2020 brought a legal firearm in their legal possession, one of which being a 26 year retired officer of the law, that any normal minded Police Officer would think would know not to remove evidence from the scene of the crime, and the firearm was brought to Police headquarters on "walk in complaint". The dispatched Officer was Evan Goldstein of the Palmer Police Department. Without even second guessing the situation, Officer Evan Goldstein immediately wrote an affidavit of probable cause putting in for a Felony Arrest Warrant without any connection of me to that firearm, Officer Evan Goldstein was told it was allegedly previously under my bed. Charging me with the violation of PACC 6105(a)(1) which was withdrawn by Assistant District Attorney Aaron Mathew Gallogly of Northampton County. Officer Evan Goldstein broke my 4th Amendment Rights with arrest with immediate arrest.

Claim 2

The Palmer Township Magistrial District Judge Jacqueline Taschner Esq. issued the Felony Arrest Warrant without any question of the officer's affidavit and events leading up to the affidavit. The warrant was executed at 11:21 pm at 2200 Donald Street. Which led directly into the conduct of the Palmer Officers, my arrest of 11/8/2020 and me having ANY interaction with law enforcement on 11/8/2020. Jacqueline Taschner Esq. being the direct cause of violation of my 4th and 14th Amendment Rights.

IV. Statement of Claim

D.

Claim 3.

Having 2 prior convictions for firearms possession by the Palmer Township Police Department, they arrived in full S. W. A. T. tactical gear and after making phone contact I exited the house voluntarily. Once in the front yard officers Kenneth McPherson and John Gillen approached me and officers Kenneth McPherson started interaction with me and I asked "Am I under arrest?". Officer Kenneth McPherson did not answer. Then I asked officer Kenneth McPherson "Am I being detained?". Officer Kenneth McPherson did not immediately answer and I stated that "Well I'm not being handcuffed". I turned my back and then Officer Kenneth McPherson stated in full that I was under arrest. I was immediately slammed to the ground by Officer Kenneth McPherson, arm barring me on the left and Officer John Gillen arm barring me on my right. As I was simultaneously tased by Officer Kenneth McPherson without verbal commands or warning. As soon as being slammed to the ground I remember no more. I was put into an epileptic episode. Once I came to awareness on the ground I was being tased a second time by Officer Patrick Clinese in severe pain and screaming for my life, "you win stop you win!" As soon as they did stop I heard a voice above me stating "He was reaching for his gun!". I replied "No I wasn't." because, I don't remember my actions or the consequences there of in my seizure. I looked up and Officer James Alercia was holding an AR-15 rifle with the barrel 6" from my head and Officer James Alercia stated "Yes you were asshole I just watched you." Stopping just short of deadly force and I was in a seizure. After making his statement Officer James Alercia removed the weapon, all officers named taking me into custody without probable cause and using excessive force breaking my 4th and 14th Amendment Rights.

IV. Statement of Claim

D.

Claim 4.

After being immediately arrested for illegal possession of the rifle the Palmer Township Police Department "acquired" by Officer Evan Goldstien from the possession of a 26 year veteran officer of the law; that allegedly came from under my bed, hence being removed from the scene of the crime by a man with 26 years in law enforcement. The Palmer Township Police Department searched the area for $2\frac{1}{2}$ hours finding no criminal activity. Violating my 14th Amendment Rights with excessive force and 4th Amendment Rights having and finding no probable cause to arrest on the night of 11/8/2020. Not detaining me, finding evidence of activity, then arresting.

IV. Statement of Claim

D.

Claim 5.

The Palmer Township has a policy of failing to properly train Police Officers in the use of discretion to avoid Constitutional violations on the citizens of the community.

Claim 6.

The Palmer Township has a policy of condoning employees outrageous conduct allowing such conduct to continue and violations to Civil Rights to accrue, failing to do disciplinary investigations into the conduct of their Police officers alleged actions filed by citizen complaints about excessive force and placing the complaints into the officers' permanent personnel files.

Claim 7.

The Palmer Township has a policy of allowing its Magistrate to grant Law Enforcement Officers permission to execute actions in which obviously violate the Constitutional Rights of the Community, Causing the violation of my 4th and 14th Amendment Rights.

Claim 8.

After spending 15 days in detainment at Northampton County Prison I was re preliminarily arraigned for more charges of Domestic Dispute upon which true Probable Cause Rests. Violating my 14th amendment Right to Due Process of Law.

IV. Statement of Claim

D.

Claim 9

The two charges by the Palmer Township Police Department Officer Patrick Cinese for Resisting Arrest and disarming of a Law enforcement Officer are excessive charges given to me for the direct fact Officer James Alercia said I was reaching at Officer Kenneth McPherson's gun and I was in a seizure and a Palmer Township Police Detective Timothy Loufe stated "there is no bodycam footage" refusing to drop the charge after being forced to drop the firearm charge. As excessive charges in violation of my 14th Amendment Rights

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

11/15/2021

Signature of Plaintiff

August B. Kreis IV

Printed Name of Plaintiff

August B. Kreis IV

Prison Identification #

5264

Prison Address

Northampton County Prison 666 Walnut Street
Easton PA 18042
City State Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

August B. Vriesman
Inmate # 5264
County of Northampton
Northampton County Prison
666 Walnut Street
Easton, PA 18042



Clerk of Court, EDPa
James A. Byrne U.S. Courthouse
Room 2609
601 Market Street
Philadelphia, PA 19106

J.M.S.
RAY

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